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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC 12010 SUNSET HILLS ROAD SUITE 900 RESTON, VA 20190			EXAMINER DOAN, DUYEN MY	
			ART UNIT 2143	PAPER NUMBER

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/898,430

Applicant(s)

RAMALEY ET AL.

Examiner

Duyen M Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 02 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/3/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Detail Action

***Drawings***

The drawings are objected to because:

Figure 4, function buttons 311-314 mentions in the specification, but in the drawing function button 313 is missing.

Figure 6A, Storage Network as the default service provider for the offside storage service 358. The drawing of figure 6A should change item 358 to storing instead of streaming and choose Storage Network as default service provider instead of AKAIMAI. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be

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notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

Misspell word on page 17, line 25, "file tape" should be replace with "file type".

Numbering on page 10, line 17 is not correct, data path 282 not 285.

Figure numbering is not correct, on page 24 line 4, should be figure 9b, instead of 8b. There is no figure 8b in the drawing.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 17 is rejected under 35 U.S.C. 101 because the claim invention is directed to non-statutory subject matter.

Claim 17 merely claims as a "data structure" that is mere arrangements or compilations of facts, information, or data *per se* and which is merely stored so as to be called "computer-readable", such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Thus, such "descriptive material," non-functional descriptive material, that cannot exhibit any functional interrelationship with the way in which computing

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processes are performed does not constitute a statutory process, machine, manufacture or composition of matter. Also, the purely non-functional descriptive material cannot alone provide the practical application for the manufacture. See *In re Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760. *In re Sarkar*, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978). See Examination Guidelines for Computer-Related Inventions-Final Version, pages 9&10. See MPEP § 2106(IV)(B)(1)(b).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai et al (us pat 6407680) and Mighdoll et al (us pat 5918013).

As regarding claim 1, Lai et al teaches in a networked computing environment comprising a server and a plurality of remote computing devices, a method for managing the distribution of digital media (col5, line 65-67, col6, line 13), wherein the

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method comprises: at the server, receiving a plurality of physical media files (col8, line 25-30); storing each of the plurality of physical media files in a memory device (col8, line 27-31);

receiving a data set indicative of a delivery setting for the distribution of one physical media file (col12, line 59-67);

generating a location data set that communicates the data attributes of the release database entity, wherein the location data set is configured for enabling a client computer to receive one physical media file (col13 line 11-16);

and transmitting the location data set from the server to at least one remote computing device of the plurality of remote computing devices(col13, line 18-23).

Lai et al does not teach creating a media database entity, wherein the media database entity stores data attributes that relate specific physical media files having a common input source and creating a release database entity, wherein the release database entity stores data attributes that relate the received data set to one physical media file and one media database entity.

Mighdoll et al teach creating a media database entity, wherein the media database entity stores data attributes that relate specific physical media files having a common input source (col5 line 31-67, col6 line 1-67) and creating a release database entity, wherein the release database entity stores data attributes that relate the received data set to one physical media file and one media database entity (col5 line 31-67, col6 line 1-67).

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Therefore it would have been obvious to one having skill in the art having the teachings of Lai et al and Mighdoll et al before him at the time of the invention to create the media database entity and a release database entity. As Mighdoll mentions in his invention, the basic purpose of the document database is that, after a document has once been retrieved by the server the stored information can be used by the server to speed up processing and downloading of that document in response to all future requests for that document (col5, line 56-64).

Therefore it would have been obvious to one having skill in the art at the time of the invention was made to have the media database entity and a release database entity to store data.

As regarding claim 3, in the modify method, Lai et al disclose the location data set is in the format of a uniform resource locator (col8, line 54-59).

As regarding claim 4, in the modify method, Lai et al disclose one of the plurality of physical media files is an audio file (col18, line 45-46).

As regarding claim 5, in the modify method, Lai et al disclose one of the plurality of physical media files is a video file (col18, line 45-46).

As regarding claim 6, in the modify method, Lai et al disclose receiving a master media file having a first bit-rate (col4, line 1-11); determining a number of media files that can

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be derived from the master media file (col4, line 12-15); generating at least one derivative file from the master media file, wherein the derivative file has a second bit-rate (col4, line 12-15); storing the derivative file in a media database (col11, line 65-67, col12, line 1-6); and distributing the derivative file to a media service computing system (col4, line 16-20).

As regarding claim 7, Lai et al teach in a networked computing environment comprising a managing server and a plurality of remote computing devices, a method for managing the distribution of digital media (col5, line 65-67, col6, line 13), wherein the method comprises: receiving from a first remote computing device a request for a transfer of a media file (col14, line 42-47);

Lai et al do not teach generating an instruction set indicative of a location address of the media file by the use of a database, wherein the database architecture comprises a plurality of media and release entities relating the request to the location address of the media file; and transmitting an instruction set to the first remote computing device, wherein the instruction set is configured to allow the remote computing device to receive the media file from a second remote computing device associated with the location address of the media file.

Mighdoll et al teach generating an instruction set indicative of a location address of the media file by the use of a database, wherein the database architecture comprises a plurality of media and release entities relating the request to the location address of the media file (col12, line 53-67, col13, line 1-29);

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and transmitting an instruction set to the first remote computing device, wherein the instruction set is configured to allow the remote computing device to receive the media file from a second remote computing device associated with the location address of the media file (col13, line 45-58).

Therefore it would have been obvious to one having skill in the art having the teachings of Lai et al and Mighdoll et al before him at the time of the invention to have a method for managing the distribution of digital media wherein the method comprises: receiving from a first remote computing device a request for a transfer of a media file, generating an instruction set indicative of a location address of the media file by the use of a database, wherein the database architecture comprises a plurality of media and release entities relating the request to the location address of the media file; and transmitting an instruction set to the first remote computing device, wherein the instruction set is configured to allow the remote computing device to receive the media file from a second remote computing device associated with the location address of the media file. By allowing the remote computing device to receive the media from a second remote computing device associated with the location address of the media file may save the memory space of the server device, it only need to store the location address of the specific media instead of the whole media file and instruct the client to contact the remote server directly (col13, line 45-58).

Therefore it would have been obvious to one having skill in the art at the time of the invention was made to allow the first computing device to access the media directly from the second computing device.

As regarding claim 8, in the modify method, Lai et al disclose the instruction set for the transfer of the media file instructs the second remote computing device to download the media file to the first remote computing device (col4, line 28-31, col13, line 51-55).

As regarding claim 9, in the modify method, Lai et al disclose the instruction set for the transfer of the media file instructs the second remote computing device to stream the media file to the first remote computing device (col4, line 20-25, col13, line 47-55).

As regard to claim 10, Lai et al disclose receiving a master media file having a first bit-rate (col4, line 1-11); determining a number of media files that can be derived from the master media file (col4, line 12-15); generating at least one derivative file from the master media file, wherein the derivative file has a second bit-rate (col4, line 12-15); storing the derivative file in a media database (col11, line 65-67, col12, line 1-6); and distributing the derivative file to a media service computing system (col4, line 16-20).

As regarding claim 11, Lai et al and Mighdoll et al disclose the invention as claimed, detailed above with respect to claim 7; Lai et al and Mighdoll et al however do not particularly disclose storing the instruction set on a computer readable medium.

However one of ordinary skill in the art would have recognized that computer readable medium (i.e., floppy disk, cd-rom, etc) carrying a program steps for implementing a method, because it would facilitate the transporting and installing of the method on other systems, is generally well known in the art. For example, a copy of the Microsoft

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Window operating system can be found on a cd rom from which Windows can be installed onto other system, which is a lot easier than running a long cable or hand typing the software onto another system. Therefore, it would have been obvious to put Lai et al and Mighdoll et al 's instruction set on a computer readable medium, because it would facilitate the transporting, installing and implementing of Lai et al and Mighdoll et al's instruction set on other systems

As regarding claim 12, is rejected for the same rationale as claim 1 above.

As regarding claim 14, is rejected for the same rationale as claim 1 above.

As regarding claim 15, Lai et al and Mighdoll et al teach the invention as claimed, detailed above with respect to claims 1, 3, 4, 5, 6, 12, 14; Lai et al and Mighdoll et al however do not particularly teach a computer readable medium having computer executable instructions for performing steps comprising: receiving a plurality of physical media files; storing each of the plurality of physical media files in a memory device; creating a media database entity, wherein the media database entity stores data attributes that relate specific physical media files having a common input source; receiving a data set indicative of a delivery setting for the distribution of one physical media file; creating a release database entity, wherein the release database entity stores data attributes that relate the received data set to one physical media file and one media database entity; generating a location data set that communicates the data

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attributes of the release database entity, wherein the location data set is configured for enabling a client computer to receive one physical media file; and transmitting the location data set to at least one remote computing device. However one of ordinary skill in the art would have recognized that computer readable medium (i.e., floppy disk, cd-rom, etc) carrying a program steps for implementing a method, because it would facilitate the transporting and installing of the method on other systems, is generally well known in the art. For example, a copy of the Microsoft Window operating system can be found on a cd rom from which Windows can be installed onto other system, which is a lot easier than running a long cable or hand typing the software onto another system. Therefore, it would have been obvious to put Lai et al and Mighdoll et al 's computer executable instruction on a computer readable medium, because it would facilitate the transporting, installing and implementing of their program on other systems.

As regarding claim 16, is rejected for the same rationale as claim 15 above.

2. Claim 2, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai et al and Mighdoll et al as applied to claim 1 above, and further in view of Novak (WO 2002/19701).

As regarding claim 2, Lai et al and Mighdoll et al disclose the invention as claimed, detailed above with respect to claim 1; Lai et al and Mighdoll et al however do not particularly teach receiving a service data set indicative of a selection of at least one service provider associated with a remote computing device configured to provide a

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media service; determining a storage location for one physical media file of the plurality of physical media files, wherein the determination of the storage location is based on the service data set; transferring at least one physical media file to at least one remote computing device associated with the determined storage location; and recording a location data set indicative of a network address of the remote computing device associated with the determined storage location.

Novak teach receiving a service data set indicative of a selection of at least one service provider associated with a remote computing device configured to provide a media service (page 15, paragraph 3); determining a storage location for one physical media file of the plurality of physical media files, wherein the determination of the storage location is based on the service data set (page 13, 1<sup>st</sup> paragraph); transferring at least one physical media file to at least one remote computing device associated with the determined storage location (page 18, 1<sup>st</sup> paragraph); and recording a location data set indicative of a network address of the remote computing device associated with the determined storage location (page 27 4<sup>th</sup> paragraph to page 28, 1<sup>st</sup> paragraph).

Therefore it would have been obvious to one having skill in the art having the teachings of Lai et al, Mighdoll et al and Novak before him at the time of the invention to store media file at another location to have service data set indicative of a selection of at least one service provider associated with a remote computing device configured to provide a media service. Transferring at least one physical media file to at least one remote computing device associated with the determined storage location. The individual can control the content type, length, sequence, availability, etc (page 5, 3<sup>rd</sup> paragraph).

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Moreover the uploaded media are linked to the determined storage location allows these parties to recognize the availability of the media programs and where the media can be accessed (page 23, last paragraph to first paragraph of page 24).

Therefore it would have been obvious to one having skill in the art at the time of the invention was made to store the media file at another location through the setting of the content provider and recorded the URL address of that media file in the database.

As regarding claim 13, is rejected as the same rationale as claim 2 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 571 272 -3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Duyen Doan

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